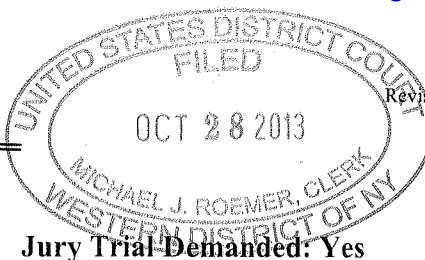


UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

Revised 07/07 WDNV

Jury Trial Demanded: Yes ☐ No ☒

Name(s) of Plaintiff or Plaintiffs

-VS-

DISCRIMINATION COMPLAINT

-CV-

Name of Defendant or Defendants

13 CV 1077 - S

You should attach a copy of your **original Equal Employment Opportunity Commission (EEOC) complaint**, a copy of the Equal Employment Opportunity Commission **decision**, AND a copy of the **"Right to Sue"** letter you received from the EEOC to this complaint. Failure to do so may delay your case.

Note: Only those grounds raised in the charge filed with the Equal Employment Opportunity Commission can be considered by the federal district court under the federal employment discrimination statutes.

This action is brought for discrimination in employment pursuant to (*check only those that apply*):

_____ Title VII of the Civil Rights Act of 1964, as codified, 42 U.S.C. §§ 2000e to 2000e-17 (amended in 1972, 1978 and by the Civil Rights Act of 1991, Pub.L.No. 102-166) (race, color, gender, religion, national origin).

NOTE: In order to bring suit in federal district court under Title VII, you **must first obtain a right to sue letter** from the Equal Employment Opportunity Commission.

_____ Age Discrimination in Employment Act of 1967, as codified, 29 U.S.C. §§ 621-634 (amended in 1984, 1990, and by the Age Discrimination in Employment Amendments of 1986, Pub.L.No. 99-592, the Civil Rights Act of 1991, Pub.L.No. 102-166).

NOTE: In order to bring suit in federal district court under the Age Discrimination in Employment Act, you **must first file charges** with the Equal Employment Opportunity Commission.

✓ _____ Americans with Disabilities Act of 1990, as codified, 42 U.S.C. §§ 12112-12117 (amended by the Civil Rights Act of 1991, Pub.L.No. 102-166).

NOTE: In order to bring suit in federal district court under the Americans with Disabilities Act, you **must first obtain a right to sue letter** from the Equal Employment Opportunity Commission.

JURISDICTION is specifically conferred upon this United States District Court by the aforementioned statutes, as well as 28 U.S.C. §§ 1331, 1343. Jurisdiction may also be appropriate under 42 U.S.C. §§ 1981, 1983 and 1985(3), as amended by the Civil Rights Act of 1991, Pub.L.No. 102-166, and any related claims under New York law.

In addition to the federal claims indicated above, you may wish to include New York State claims, pursuant to 28 U.S.C. § 1367(a).

New York State Human Rights Law, N.Y. Exec. Law §§ 290 to 297 (age, race, creed, color, national origin, sexual orientation, military status, sex, disability, predisposing genetic characteristics, marital status).

PARTIES

1. My address is: 330 TAUNTON PLACE
BUFFALO, NY 14216

My telephone number is: 716-838-2509

2. The name of the employer(s), labor organization, employment agency, apprenticeship committee, state or local government agency who I believe discriminated against me is/are as follows:

Name: COUNSELING SERVICES AT SONY AT BUFFALO

Number of employees: DEPT - APRX 50 ; EEOC LISTED UNIVERSITY
AND CLASSIFIED AS "OVER 500"

Address: 120 RICHMOND QUAD (MAIN ADDRESS)
AMHERST, NY 14261

3. (If different than the above), the name and/or the address of the defendant with whom I sought employment, was employed by, received my paycheck from or whom I believed also controlled the terms and conditions under which I were paid or worked. (For example, you worked for a subsidiary of a larger company and that larger company set personnel policies and issued you your paycheck).

Name: _____

Address: _____

CLAIMS

4. I was first employed by the defendant on (date): JUNE 26, 2008

5. As nearly as possible, the date when the first alleged discriminatory act occurred is: 8/4 4/4/13 DATE
CONTINUAL HOSTILITY FROM START; WORSENING AFTER
DECEMBER 17, 2010

OF
SAMPLE
MEMO TO
EEOC

6. As nearly as possible, the date(s) when subsequent acts of discrimination occurred (if any did): MOST RECENTLY HARASSED, 9/19/13; (WITHIN ORIGINAL FILING PERIOD & MORE SERIOUS) - 9/11/12 - QUESTIONING FMLA; 11/5/12 - NOTICE OF DISCIPLINE - AABANY DID NOT GRANT (BY 9/29/13) SITUATIONS REVISITED SO I CAN BE BLAMED IN DIFFERENT VENUES (E.G. A COUNSELING MEMO) OVERTURNED 5/13/13 - RAISES DENIED BEYOND TIME STILL

7. I believe that the defendant(s) _____

a. ☒ Are still committing these acts against me.

b. ☐ Are not still committing these acts against me.

(Complete this next item **only** if you checked "b" above) The last discriminatory act against me occurred on (date) _____

8. (Complete this section **only** if you filed a complaint with the New York State Division of Human Rights)

The date when I filed a complaint with the New York State Division of Human Rights is _____

____ (estimate the date, if necessary)

I filed that complaint in (identify the city and state): _____

The Complaint Number was: _____

9. The New York State Human Rights Commission did _____ /did not _____ issue a decision. (NOTE: If it **did** issue a decision, you **must attach** one copy of the decision to **each** copy of the complaint; failure to do so will delay the initiation of your case.)

10. The date (if necessary, estimate the date as accurately as possible) I filed charges with the Equal Employment Opportunity Commission (EEOC) regarding defendant's alleged discriminatory conduct is: 5/23/13 (SIGNED 5/16 & WAITED FOR APNT)

11. The Equal Employment Opportunity Commission did _____ /did not _____ issue a decision. (NOTE: If it **did** issue a decision, you **must attach** one copy of the decision to **each** copy of the complaint; failure to do so will delay the initiation of your case.)

12. The Equal Employment Opportunity Commission issued the attached Notice of Right to Sue letter which I received on: 8/1/13 (DATED 7/30/13) mailed. (NOTE: If it

did issue a Right to Sue letter, you **must attach** one copy of the decision to **each** copy of the complaint; failure to do so will delay the initiation of your case.)

13. I am complaining in this action of the following types of actions by the defendants:

- a. ☒ Failure to provide me with reasonable accommodations to the application process
- b. ☐ Failure to employ me
- c. ☐ Termination of my employment
- d. ☒ Failure to promote me *(given bad reputation - approx 20 interviews within 100)*
- e. ☒ Failure to provide me with reasonable accommodations so I can perform the essential functions of my job *CURRENTLY ON 2 NEW PROMOTIONALS W/ 90495 AS GRADES; TRANSFERS NOT GIVEN AT INTERVIEW EITHER UPON REQUEST - AS FORMER EMPLOYEE REC'D*
- f. ☐ Harassment on the basis of my sex
- g. ☐ Harassment on the basis of unequal terms and conditions of my employment
- h. ☒ Retaliation because I complained about discrimination or harassment directed toward me
- i. ☐ Retaliation because I complained about discrimination or harassment directed toward others
- j. ☒ Other actions (please describe) BULLYING, HOSTILE WORK ENVIRONMENT

14. Defendant's conduct is discriminatory with respect to which of the following (check all that apply):

- a. ☐ Race
- b. ☐ Color
- c. ☐ Sex
- d. ☐ Religion
- e. ☐ National Origin
- f. ☐ Sexual Harassment
- g. ☐ Age _____ Date of birth _____
- h. ☒ Disability

Are you incorrectly perceived as being disabled by your employer?

☐ yes ☒ no

PASSED PHYSICAL & MENTAL EXAM THEY FORCED ME TO TAKE 5/31/13 (STATE APPOINTED DOCTORS)

15. I believe that I was ☒/was not ☐ intentionally discriminated against by the defendant(s).

16. I believe that the defendant(s) is/are ☒ is not/are not _____ still committing these acts against me. (If you answer is that the acts are not still being committed, state when: _____ and why the defendant(s) stopped committing these acts against you: _____)

17. A copy of the charge to the Equal Employment Opportunity Commission is attached to this complaint and is submitted as a brief statement of the facts of my claim. (NOTE: You must attach a copy of the original complaint you filed with the Equal Employment Opportunity Commission and a copy of the Equal Employment Opportunity Commission affidavit to this complaint; failure to do so will delay initiation of your case.)

18. The Equal Employment Opportunity Commission (check one):

☐ has not issued a Right to sue letter

☒ has issued a Right to sue letter, which I received on 8/1/13

19. State here as briefly as possible the facts of your case. Describe how each defendant is involved, including dates and places. Do not give any legal arguments or cite any cases or statutes. If you intend to allege a number of related claims, number and set forth each claim in a separate paragraph. (Use as much space as you need. Attach extra sheets if necessary.)

I AM SEEKING RELIEF FROM A HOSTILE ENVIRONMENT WHICH CONTINUES TO VIOLATE RELIEF FOR ME AT THE FRONT DESK

NEEDED BECAUSE OF MEDICATION I AM TAKING FOR DEPRESSION, WHICH AS DISCOVERED BY

STATE DOCTOR S AND THE LABOR DEPARTMENT'S FMLA, THE UNIV. TRIED TO REMOVE ME FROM MY POSITION BECAUSE "INTERMITTENT" LEAVE WAS TOO DIFFICULT TO SCHEDULE AROUND, AND, WHICH HAS RUINED MY REPUTATION FOR TRANSFER AND/OR PROMOTIONAL LISTS AT THE UNIVERSITY BY ACCUSATIONS WHICH ARE TOTALLY UNTRUE, EMBELLISHED, OR FOR WHICH I HAD NO OTHER RECOURSE - BEING ALONE AND MONITORING A DESK - YET EXPECTED TO DETAIN A LEAVING CLIENT WHO MAY BE BELLIGERANT (THEY ARE NOT TO BE HANDLED). THIS INCLUDES OPERATIONS ON THE COMPUTER, WHICH UPPER MANAGEMENT DOES NOT UNDERSTAND WILL NOT BE SALVAGEABLE IF A CLIENT HACKS OUT OF OPERATION.

IN RESPECTFULLY ASKING THAT I BE QUESTIONED BEFORE BEING WRITTEN UP, I ALSO DISCLOSED THE MEDICAL ISSUE FOR WHICH I HAVE BEEN GRANTED FMLA STATUS LAST YEAR AND THIS. THE DOH HAS MADE THE DEPARTMENT ATTEND A SEMINAR ON FMLA. NEITHER ISSUE SEEMS TO BE TAKEN SERIOUSLY. THIS EXTENDS TO MY BEING DENIED THE LAST TWO RAISES AND A \$1,500.00 STIPEND FOR 5-YR SERVICE. THIS IS WHILE I AWAIT LEVEL 2 HEARINGS DEALING WITH HOSTILE ENVIRONMENT AND COUNSELING MEMOS, THE LATTER OF WHICH ALBANY ALREADY OVERTURNED COUNSELING SERVICES' REQUEST FOR 2 WEEKS OF MY PAY.

FOR LITIGANTS ALLEGING AGE DISCRIMINATION

20. Since filing my charge of age discrimination with the Equal Employment Opportunity Commission regarding defendant's alleged discriminatory conduct _____ 60 days or more have elapsed _____ less than 60 days have elapsed

FOR LITIGANTS ALLEGING AN AMERICANS WITH DISABILITIES ACT CLAIM

21. I first disclosed my disability to my employer (or my employer first became aware of my disability on 8/23/12)

22. The date on which I first asked my employer for reasonable accommodation of my disability is 8/23/12 MEMO; 4/8/13 ABA OFFICE
23. The reasonable accommodations for my disability (if any) that my employer provided to me are: WERE: SOME STUDENT ASSISTANT; PERMISSION TO LEAVE THE DESK IF ONLY FOR A FEW MINUTES (SIGN W/ ALTERNATE OFFICE'S PHONE NUMBER IS POSTED.) SINCE LAST SEMESTER - NO ASSISTANCE. I HAVE BEEN INAPPROPRIATELY ASKED WHY I LEFT MY DESK APOUGH BETWEEN DEALING W/ NEW CLIENT AND CHECK IN TIME FOR ESTABLISHED CLIENTS AS LATE AS 9/19/13.
24. The reasonable accommodation provided to me by my employer were /were not effective.

WHEREFORE, I respectfully request this Court to grant me such relief as may be appropriate, including injunctive orders, damages, costs and attorney's fees, SWEARING TO THE ABOVE UNDER PENALTY OF PERJURY

Dated: 10/28/2013

Susan Ford

Plaintiff's Signature

CHARGE OF DISCRIMINATION

This form is affected by the Privacy Act of 1974. See enclosed Privacy Act Statement and other information before completing this form.

Charge Presented To: Agency(ies) Charge No(s):

☐ FEPA
☒ EEOC

846-2013-18684

New York State Division Of Human Rights

and EEOC

State or local Agency, if any

Name (indicate Mr., Ms., Mrs.)

Ms. Susan Kondek

Home Phone (Incl. Area Code)

(716) 838-2509

Date of Birth

12-14-1954

Street Address

City, State and ZIP Code

330 Tuanton Place, Buffalo, NY 14216

Named is the Employer, Labor Organization, Employment Agency, Apprenticeship Committee, or State or Local Government Agency That I Believe Discriminated Against Me or Others. (If more than two, list under PARTICULARS below.)

Name

SUNY @ BUFFALO UNIVERSITY COUSELING SVCS

No. Employees, Members

500 or More

Phone No. (Include Area Code)

(716) 645-2720

Street Address

City, State and ZIP Code

120 Richmond Quad, Amherst, NY 14621

Name

No. Employees, Members

Phone No. (Include Area Code)

Street Address

City, State and ZIP Code

DISCRIMINATION BASED ON (Check appropriate box(es).)

☐ RACE ☐ COLOR ☐ SEX ☐ RELIGION ☐ NATIONAL ORIGIN
☐ RETALIATION ☐ AGE ☒ DISABILITY ☐ GENETIC INFORMATION
☐ OTHER (Specify)

DATE(S) DISCRIMINATION TOOK PLACE

Earliest

Latest

04-04-2013

04-04-2013

300 DAYS PRIOR
& BEYOND☒ CONTINUING ACTION

THE PARTICULARS ARE (If additional paper is needed, attach extra sheet(s)):

I am a qualified individual with a disability. I have worked for the Respondent since 2008. My current position is KBS1.

On or about April 10, 2013, I was disciplined for giving too much detail in an email as to my reason for using FMLA. Additionally, I have been counseled and put on a Notice of Discipline when I have had to take time off related to my disability without 2 weeks notice. Respondent has not recognized my leave as a reasonable accommodation under the Americans with Disabilities which is separate coverage under the law than the FMLA. There are times that I need to see my doctor regarding medication issues related to my disability. At these times, it is not always feasible to give 2 weeks notice. I believe I have been singled out and harassed because of my disability.

THE NOTICE OF DISCIPLINE OCCURRED WITHIN THE ABOVE PERIOD AND WAS NOT GRANTED TO COUNSELING SERVICES AT A LEVEL 2 HEARING WITH THE GOVERNOR'S REPRESENTATIVE. IT DID NOT INVOLVE THE "2 WEEK NOTICE" BUT BASICALLY WORK-RELATED CHARGES FOR WHICH I DID NOT RECEIVE THE REQUESTED PUNISHMENT. THE 2 WEEK NOTICE HAS BEEN BROUGHT UP REPEATEDLY VERBALLY; AND IN 1 SHOCKING MEMO WORKED TO SINGLE ME OUT. HOWEVER, THE ENTIRE ENVIRONMENT CROSSING ME MEDICAL ISSUES WAS BROUGHT UP, AND THE GOVERNOR'S REPRESENTATIVE HIMSELF SUGGESTED ADA. (AK)

I declare under penalty of perjury that the above is true and correct.

I swear or affirm that I have read the above charge and that it is true to the best of my knowledge, information and belief.

SIGNATURE OF COMPLAINANT

X

SUBSCRIBED AND SWORN TO BEFORE ME THIS DATE (month, day, year)

ROBERT I. SUSKA

Notary Public, State of New York

Qualified in Erie County

Commission Expires April 14, 2015

5/16/2013

Date

X Susan Kondek

Charging Party Signature

U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

DISMISSAL AND NOTICE OF RIGHTS

To: **Susan Kondek**
330 Taunton Place
Buffalo, NY 14216

From: **Buffalo Local Office**
6 Fountain Plaza
Suite 350
Buffalo, NY 14202



On behalf of person(s) aggrieved whose identity is
 CONFIDENTIAL (29 CFR §1601.7(a))

EEOC Charge No.

EEOC Representative

Telephone No.

846-2013-18684

Maureen Kielt,
Investigator

(716) 551-3089

THE EEOC IS CLOSING ITS FILE ON THIS CHARGE FOR THE FOLLOWING REASON:



The facts alleged in the charge fail to state a claim under any of the statutes enforced by the EEOC.



Your allegations did not involve a disability as defined by the Americans With Disabilities Act.



The Respondent employs less than the required number of employees or is not otherwise covered by the statutes.



Your charge was not timely filed with EEOC; in other words, you waited too long after the date(s) of the alleged discrimination to file your charge



The EEOC issues the following determination: Based upon its investigation, the EEOC is unable to conclude that the information obtained establishes violations of the statutes. This does not certify that the respondent is in compliance with the statutes. No finding is made as to any other issues that might be construed as having been raised by this charge.



The EEOC has adopted the findings of the state or local fair employment practices agency that investigated this charge.



Other (briefly state)

- NOTICE OF SUIT RIGHTS -

(See the additional information attached to this form.)

Title VII, the Americans with Disabilities Act, the Genetic Information Nondiscrimination Act, or the Age Discrimination in Employment Act: This will be the only notice of dismissal and of your right to sue that we will send you. You may file a lawsuit against the respondent(s) under federal law based on this charge in federal or state court. Your lawsuit **must be filed WITHIN 90 DAYS of your receipt of this notice**; or your right to sue based on this charge will be lost. (The time limit for filing suit based on a claim under state law may be different.)

Equal Pay Act (EPA): EPA suits must be filed in federal or state court within 2 years (3 years for willful violations) of the alleged EPA underpayment. This means that **backpay due for any violations that occurred more than 2 years (3 years) before you file suit may not be collectible.**

On behalf of the Commission

JUL 30 2013

Enclosures(s)

John E. Thompson,
Local Office Director

(Date Mailed)

cc: **SUNY @ BUFFALO UNIVERSITY COUSELING SVCS**

James L. Jarvis, Associate Counsel
SUNY Office of General Counsel
State University Plaza
Albany, NY 12246